

Docket No.: PMC-003 C228
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

John C. Harvey and James W. Cuddihy

Appeal No. 2007-1837

Serial No.: 08/470,571

Filed: June 6, 1995

For: SIGNAL PROCESSING APPARATUS AND
METHODS

Confirmation No.: 7586

Art Unit: 2622

Examiner: David Louis Ometz

SUPPLEMENTAL APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Supplemental Brief is filed to ensure that the Board of Patent Appeals and Interferences is fully aware of a decision by a panel of the Board issued jointly in Appeal Nos. 2008-0334 and 2007-4044 on June 30, 2008. These are appeals in related reexamination proceedings of U.S. Patent 4,694,490, Control No. 90/006,800 (Appeal No. 2008-0334) and U.S. Patent 4,704,725, merged Control Nos. 90/003,397 and 90/006,841 (Appeal No. 2007-4044). The Decision affirmed the rejections under appeal. In particular, the Decision held that the reference designated as the "CBS Petition" including an "Appendix B" is available prior art and the Decision provided an interpretation of the claim term "user specific." On August 18, 2008, the appellant, who is the assignee of this application, filed a Request for Rehearing.

In the instant appeal, an Appeal Brief was filed February 8, 2005, an Examiner's Answer was mailed October 6, 2005, and a Reply Brief was filed December 6, 2005, which was acknowledged on January 9, 2006. The Board issued an Order Returning Undocketed Appeal to the Examiner on April 11, 2006. A Substitute Appeal Brief was filed April 26, 2006, in response to which an Examiner's Answer was mailed June 27, 2006, and a Reply Brief was filed July 3, 2006. The Reply Brief was acknowledged on November 24, 2006. On April 9, 2007, the appeal was assigned Appeal No. 2007-1837. An Oral Hearing was conducted on December 5, 2007. This Supplemental Brief supplements the statement of the Related Appeals and Interferences with activities that have occurred since the Reply Brief of July 3, 2006, and supplements the Related Proceedings Appendix with the recent panel decision.

II. RELATED APPEALS AND INTERFERENCES

Since the Reply Brief was filed July 3, 2006, the following actions have occurred in the related appeals listed in the Appeal Brief:

Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 4,694,490, Control No. 90/006,800. This appeal was assigned Appeal No. 2008-0334 on October 30, 2007. Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 4,704,725, merged Control Nos. 90/003,397 and 90/006,841. This appeal was assigned Appeal No. 2007-0334 on August 23, 2007. Oral Hearings were conducted on both these appeals on January 9, 2008. On June 30, 2008, a joint Decision was issued in Appeal Nos. 2008-0334 and 2007-4044. The decision is attached in the Related Proceedings Appendix. A Request for Rehearing was filed on August 18, 2008.

Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 4,965,825. This appeal was assigned Appeal No. 2008-4228 on June 27, 2008. An Oral Hearing is scheduled for October 1, 2008.

Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 5,109,414, Control No. 90/006,838. This appeal was assigned Appeal No. 2008-4864 on August 1, 2008.

On July 31, 2006, an Appeal Brief was filed in the related reexamination proceeding of U.S. Patent 5,233,654, merged Control Nos., 90/006,606; 90/006,703 and 90/006,839. A Notice of Intent to Issue Reexamination Certificate was mailed on October 2, 2007. No certificate has been issued to date.

Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 5,335,277, merged Control Nos. 90/006,563 and 90/006,698. On July 30, 2008, the Board issued an Order Returning an Undocketed Appeal to the Examiner.

Briefing was completed in the appeal in the related reexamination proceeding of U.S. Patent 5,887,243, Control No. 90/006,688. This appeal was assigned Appeal No. 2008-4816 on July 30, 2008.

On December 5, 2007, an Oral Hearings was held in Appeal No. 2007-2115, regarding related patent application Control No. 08/487,526, concurrently with the Oral Hearing in this appeal.

On February 19, 2008, the assignee of this application under appeal filed a Compliant for Patent Infringement in the United States District Court for the Eastern District of Texas. The Compliant asserts that Motorola, Inc., EchoStar Corp., and Dish Network Corp. infringe claims of U.S. Patents 4,694,490; 4,965,825; 5,109,414; 5,233,654; 5,335,277 and 5,887,243. The case has been assigned Civil Action No. 2-08CV-070. No substantive action has occurred in this litigation.

CONCLUSION

Appellant respectfully requests that this statement updating the status of the related appeals and interferences be made of record in this appeal and that a decision on the appeal be issued promptly.

Dated: September 30, 2008

Respectfully submitted,

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X. RELATED PROCEEDINGS APPENDIX

June 30, 2008, Decision on Appeal in *Ex parte* Personalized Media Communications, Inc., Appeal 2007-4004, Reexamination Controls 90/006,697 and 90/006,841 (merged), Patent 4,704,725 and Appeal 2008-0334, Reexamination Control 90/006,800, Patent 4,694,490